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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
2008 FEB 19 AM 11:20

UNITED STATES OF AMERICA,

Plaintiff,

v.

David GUTIERREZ-Lopez,

Defendant

Magistrate Docket No.

08 MJ 0469

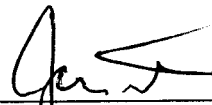
COMPLAINT FOR VIOLATION OF DEPUTY

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

On or about **February 15, 2008** within the Southern District of California, defendant, **David GUTIERREZ-Lopez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **19th** DAY OF **FEBRUARY**
2008



William McCurine Jr.
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
David GUTIERREZ-Lopez

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

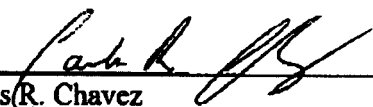
On February 15, 2008, Border Patrol Agent A. Ramirez was conducting Border Patrol duties in the Campo, California area of operations. This area is located approximately 18 miles east of the Tecate, California Port of Entry. At approximately 2:00 a.m., Agent Ramirez came across footprints on the border road that were heading in a northbound direction. Due to the close proximity of the border road and the frequency of suspected illegal entrants that used this area to further their illegal entry into the United States, Agent Ramirez followed footprints.

Agent Ramirez followed the footprints for approximately one mile north of the International Border fence. At approximately 2:30 a.m., Agent Ramirez encountered nine individuals lying in dense brush in an attempt to conceal themselves. Agent Ramirez identified himself as a United States Border Patrol Agent and questioned each individual as to their citizenship and immigration status. Each individual, including one individual later identified as the defendant **David GUTIERREZ-Lopez**, stated that they were citizens and nationals of Mexico without the proper documentation to be in or remain in the United States legally. All nine individuals, including the defendant, were arrested and transported to the Campo Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on January 29, 2008 through Calexico, California. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

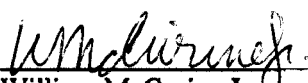
The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.

Executed on February 16, 2008 at 9:00 a.m.

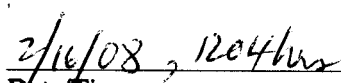


Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on February 15, 2008, in violation of Title 8, United States Code, Section 1326.



William McCurine Jr.
United States Magistrate Judge



Date/Time